

ORIGINAL

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

Edward Maldonado

★ DEC 14 2012 ★

COMPLAINT  
BROOKLYN OFFICE

"Jury TRIAL Demanded"

NAME OF PLAINTIFF(S)

MENACOLA Marketing, Inc.,  
Ricardo Phillip

MAUSKOPF, J.

6236

NAME OF DEFENDANT(S)

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).

**NOTE:** In order to bring a suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 92-592, the Civil Rights Act of 1991, Pub. L. No. 102-166).

**NOTE:** In order to bring a suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.

☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117 (amended by the ADA Amendments Act of 2008, Pub. L. No. 110-325 and the Civil Rights Act of 1991, Pub. L. No. 102-166).

**NOTE:** In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

Jurisdiction is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub. L. No. 102-166, and any related claims under New York law.

1. Plaintiff resides at:

8640 24<sup>th</sup> Ave Apt # 212  
Street Address  
Kings NY 11214 917-283-7303  
County State Zip Code Telephone Number

2. Defendant(s) resides at, or its business is located at:

69-14 New Utrecht Avenue  
Street Address  
Kings Brooklyn NY 11214  
County City State Zip Code

3. The address at which I sought employment or was employed by the defendant(s) is:

69-14 New Utrecht Avenue  
Street Address  
Kings Brooklyn NY 11214  
County City State Zip Code

4. The discriminatory conduct of which I complain in this action includes  
(check only those that apply).

☐ Failure to hire.  
☒ Termination of my employment.  
☐ Failure to promote.  
☐ Failure to accommodate my disability.  
☐ Unequal terms and conditions of my employment.  
☐ Retaliation  
☒ Other acts (specify): Race Discrimination

**NOTE:** Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

5. It is my best recollection that the alleged discriminatory acts occurred on:

9-19-2011, 9-20-11, 9-21-2011  
Date(s)

6. I believe that the defendant(s) (check one)

☐ is still committing these acts against me.  
☒ is not still committing these acts against me.

7. Defendant(s) discriminated against me based on my:  
(check only those that apply and state the basis for discrimination, for example,  
what is your religion, if religious discrimination is alleged)

☒ race \_\_\_\_\_ ☐ color \_\_\_\_\_  
☐ gender/sex \_\_\_\_\_ ☐ religion \_\_\_\_\_  
☒ national origin \_\_\_\_\_  
☐ disability \_\_\_\_\_  
☐ age. If age is checked, answer the following:

I was born in \_\_\_\_\_. At the time(s) defendant(s) discriminated against me,  
 Year  
 I was ☐ more ☐ less than 40 years old. (check one).

**NOTE:** Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

8. The facts of my case are as follows:

I Edward Maldonado was employed by Menacora Marketing Inc.  
as a telemarketer.  
on or around September, 19, 2011. Ricardo Phillip was a Manager  
where he would train new employees. On or around September, 20, 2011  
I was asked by the manager Ricardo Phillip where I was from  
when I told him Brooklyn I realized that wasn't what he  
was asking me, I then responded with I'm Puerto Rican  
it's when he said you sound as if you have an accent.  
Ricardo Phillip asked me to sound more "white" when you're  
speaking to "these people, remember they're from New Hampshire"  
*(Attach additional sheets as necessary)* *(See Attached)*

**NOTE:** As additional support for your claim, you may attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights, or the New York City Commission on Human Rights.

9. It is my best recollection that I filed a charge with the New York State Division of Human Rights or the New York City Commission on Human Rights regarding defendant's alleged discriminatory conduct on: November 1, 2011.  
Date

10. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on: \_\_\_\_\_  
Date

Ricardo Phillip then had me Edward Maldonado monitor his phone calls, and after several calls said to me "that's how you have to speak to these people". On or around September, 21 2011 After several calls I, Edward Maldonado was asked to hang up the phone and was told by Ricardo Phillip I didn't make the transition he had asked me to make, and furthermore said "This job isn't for everybody and don't worry I got you with a letter of recommendation if you want"; I'll hook it up and was told to come back the following week to pick up my check.

Respectfully,  
Edward Maldonado

**Only litigants alleging age discrimination must answer Question #11.**

11. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

\_\_\_\_\_ 60 days or more have elapsed.

\_\_\_\_\_ less than 60 days have elapsed.

12. The Equal Employment Opportunity Commission (*check one*):

\_\_\_\_\_ has not issued a Right to Sue letter.

X \_\_\_\_\_ has issued a Right to Sue letter, which I  
received on October, 4 2012.  
Date

**NOTE:** Attach a copy of the Right to Sue Letter from the Equal Employment Opportunity Commission to this complaint.

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, costs, and attorney's fees.

  
PLAINTIFF'S SIGNATURE

Dated: December, 12, 2012

8640 24th Avenue Apt # 2R  
Address

Brooklyn, NY 11214

917-283-7303  
Phone Number

EEOC Form 161 (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Edward Maldonado**  
 8640 24th Avenue, Apt 2r  
 Brooklyn, NY 11214

From: **New York District Office**  
 33 Whitehall Street  
 5th Floor  
 New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16F-2012-00017

**Holly M. Woodyard,**  
 Investigator

(212) 336-3643

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
**Kevin J. Berry,**  
 District Director

October 4, 2012

(Date Mailed)

Enclosures(s)

cc:

**MENACOLA MARKETING, INC.**  
 69-14 New Utrecht Avenue  
 Brooklyn, NY 11214  
 Attn: Director of Personnel

**Joseph C. Valente, Esq.**  
 Law Office of Thaniel J. Beinert  
 155 Bay Ridge Ave.  
 Brooklyn, NY 11220